

Staff Summary Report



Council Meeting Date: 5/20/2010

Agenda Item Number: _____

SUBJECT: Request approval of a resolution authorizing the City Manager or his designee to negotiate and execute a Third Modification and Settlement Agreement with GDG Partners, L.L.C.

DOCUMENT NAME: 20100520casv02 RIO SALADO MASTER PLAN 0112-07-03 Resolution No. 2010.63

COMMENTS: N/A

PREPARED BY: Cynthia Y. McCoy, Assistant City Attorney (480-350-2187)

REVIEWED BY: Chris Salomone, Community Development Manager (480-350-8294)

LEGAL REVIEW BY: Andrew B. Ching, City Attorney (480-350-8575)

DEPARTMENT REVIEW BY: Andrew B. Ching, City Attorney (480-350-8575)

FISCAL NOTE: This will authorize the Manager to negotiate a settlement of the balance due so long as the amount received exceeds the sum of \$4,856,387. The developer has filed bankruptcy and staff would like to move swiftly to approve a settlement. There is an unpaid balance of \$9.2M under the Payment Agreement. Not all of the payment may be applied to the amounts due under the Payment Agreement, however, staff would like to preserve negotiating flexibility.

RECOMMENDATION: Adopt Resolution as presented.

ADDITIONAL INFO: Prior agreements called for the developer to refinance the first loan previously held by Key Bank, in the amount of \$62.5M. Developer has been unable to secure such financing and has in fact filed bankruptcy. City believes it can obtain agreement on a partial payment, which will be subject to approval from the first lien holder and the bankruptcy court as well. This resolution provides the Manager with authority to reach agreement with the developer so long as certain minimums are satisfied. Periodic payments may be required, which would be secured by property owned by an affiliate and located at Apache and McClintock.